

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HECTOR ORLANDO BARRAZA
ROMERO,

Petitioner,

v.

WARDEN, FCI MENDOTA,

Respondent.

Case No. 1:23-cv-00161-SAB-HC

ORDER DIRECTING RESPONDENT TO
FILE COPY OF PETITIONER'S
PURPORTED FINAL ORDER OF
REMOVAL

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 that challenges a Federal Bureau of Prisons' policy that excludes inmates with immigration detainers, such as Petitioner, from applying their First Step Act ("FSA") Earned Time Credits ("FTCs"). (ECF No. 1.)

Respondent has moved to dismiss the petition, arguing, among other grounds, that "Petitioner is jurisdictionally and statutorily barred from FSA ETC sentence-offsets due to the final order of removal from another federal court." (ECF No. 9 at 3.)¹ Respondent has attached a copy of the Department of Homeland Security Immigration Detainer – Notice of Action that shows a "final order of removal" has been issued against Petitioner. (ECF No. 9-1 at 10.) However, Respondent has not provided the Court with a copy of the final order of removal itself.

¹ Page numbers refer to the ECF page numbers stamped at the top of the page.

Pursuant to Rule 7 of the Rules Governing Section 2254 Cases in the United States District Courts (“Habeas Rules”),² the Court will order Respondent to file a copy of Petitioner’s purported final order of removal and provide Petitioner an opportunity to file a response. See Habeas Rule 7(a), (c) (providing that “the judge may direct the parties to expand the record by submitting additional materials relating to the petition” and “must give the party against whom the additional materials are offered an opportunity to admit or deny their correctness”).

Accordingly, IT IS HEREBY ORDERED that:

1. Within fourteen (14) days of the date of this order, Respondent SHALL FILE a copy of Petitioner’s purported final order of removal; and
2. Within fourteen (14) days of the filing of the copy of the final order of removal, Petitioner may file a response.

IT IS SO ORDERED.

Dated: July 7, 2023


UNITED STATES MAGISTRATE JUDGE

² The Rules Governing Section 2254 Cases apply to § 2241 habeas petitions. See Rule 1(b) of the Rules Governing Section 2254 Cases (“The district court may apply any or all of these rules to a habeas corpus petition not covered by” 28 U.S.C. § 2254.).